

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:08-cr-133

v.

HON. JANET T. NEFF

ADRIEL MCCULLOUGH,

Defendant.

/

**MEMORANDUM OPINION AND ORDER**

Defendant Adriel McCullough has filed a motion for modification or reduction of sentence (Dkt 163) pursuant to 18 U.S.C. §3582(c)(2) based on the modification of the Drug Quantity Table with respect to cocaine base (crack cocaine).

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 750 of the United States Sentencing Guidelines modified U.S.S.G. § 2D1.1, the Drug Quantity Table with regard to cocaine base (crack cocaine), and U.S.S.G. § 2D2.1(b). These modifications were made retroactive effective November 1, 2011. U.S.S.G. § 1B1.10(c).

The defendant is ineligible for consideration of modification of sentencing under 18 U.S.C. § 3582(c)(2) because at the time of original sentencing, the Court applied a base offense level of 26 for the 113.4 grams of cocaine base accountable to the defendant. The Court based the offense level on the application of a 20 to 1 ratio of powder to crack. Application of the retroactive amendment

would require a base offense level of 28; therefore the amendment would not result in a lower sentence.

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (Dkt 163) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED.

IT IS FURTHER ORDERED that defendant's request for court appointed counsel is also DENIED.

DATED: January 26, 2012

/s/ Janet T. Neff  
JANET T. NEFF  
United States District Judge